



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
James C. Elliott) Group Art Unit: 3725
Application No.: 10/690,937) Confirmation No.: 7696
Filed: October 22, 2003) Examiner: Rosenbaum, Mark
For: "A HAMMERMILL")

TRANSMITTAL LETTER

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer Number 23859
August 19, 2005

Sir:

Transmitted herewith are the following:

1. Response to Restriction Requirement (3 pgs.);
2. Certificate of Mailing dated August 19, 2005; and
3. Return Postcard.

No fees are believed to be due; however, the Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

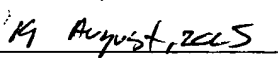
By: 
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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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Kean J. DeCarlo, Reg. No. 39,956


Date



ATTORNEY DOCKET NO.: 18111.0021U4
PATENT

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ELECTION UNDER RESTRICTION REQUIREMENT

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer Number 23859

August 19, 2005

Sir:

In the Action dated July 28, 2005, the Examiner has restricted the application and has required an election of one of three different groups set forth on page 2 of the Action. The application has been restricted into the following three groups (noting that, in accord with the Examiner's note of Page 2 of the Action, Claims 29-59, as originally filed, have been renumbered as Claims 28-58):

Group I. Claims 1-28 and 54 drawn to a hammermill with a grate assembly, classified in class 241, subclass 186.2;

Group II. Claims 29-42 and 56-58 drawn to a hammermill with an annular peripheral ring, classified in class 241, subclass 188.1; and

Group III. Claims 43-53 and 55 drawn to a hammermill with a particular type of hammer, classified in class 241, subclass 194.

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Applicant provisionally elects Group II with traverse and, accordingly, in the event no generic claim is held to be allowable, provisionally elect Claims 29-42 and 56-58 drawn to a hammermill with an annular peripheral ring, classified in class 241, subclass 188.1.

For a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without *serious burden* on the Examiner. *See* M.P.E.P. § 803. Applicant requests that the restriction requirement be reconsidered because the Examiner has not met the burden of demonstrating that a *serious burden* would be required to examine all the claims. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Applicant respectfully submits that the Examiner has not shown that the second requirement has been met. Specifically, there has been no showing that it would be a serious burden to search and examine the three groups together. The groups are related in that they involve a hammermill for reducing material and a method of using same. Because little or no additional burden would be required to search and examine the groups together, applicant respectfully submits that the Examiner should search and examine the groups together. Indeed it would be most efficient to keep them together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.


Applicant awaits an action on the merits.

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Respectfully submitted,

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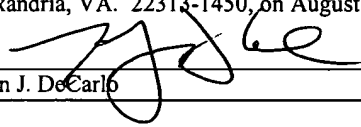


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Kean J. DeCarlo

Date

19 August 2005